

AMENDED IN SENATE JUNE 21, 2005

AMENDED IN SENATE JUNE 9, 2005

AMENDED IN SENATE MAY 26, 2005

AMENDED IN ASSEMBLY MAY 5, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 68

Introduced by Assembly Member Montanez

***(Principal coauthors: Assembly Members Bass, Dymally, Jones,
Leno, Negrete McLeod, Nunez, and Ridley-Thomas)***

***(Principal coauthor: Senator coauthors: Senators Figueroa, Perata,
and Speier)***

January 3, 2005

An act to amend Sections 2981 and 2982 of, and to add Sections 2982.2 and 2982.10 to, the Civil Code, to add Section 6012.3 to the Revenue and Taxation Code, and *to amend Section 11709.2 of, and to add Sections 11713.18, 11713.19, 11713.20, and 11713.21 to, the Vehicle Code, relating to consumers.*

LEGISLATIVE COUNSEL'S DIGEST

AB 68, as amended, Montanez. Motor vehicle sale contracts: Car Buyer's Bill of Rights.

Existing law governs motor vehicle conditional sale contracts, as defined. These provisions require sellers of motor vehicles to make certain disclosures to buyers, including that existing law does not provide for a "cooling off" period, and to disclose certain information under the label "itemization of the amount financed." A violation of these provisions is a misdemeanor.

This bill, operative July 1, 2006, would enact the Car Buyer's Bill of Rights.

The bill would require a conditional sale contract for a motor vehicle to include a specified notice to inform the buyer of a used vehicle with a purchase price of less than \$40,000 of his or her right to obtain a contract cancellation option agreement. The bill also would require the conditional sale contract to include the amount charged for a theft deterrent device, as defined, the amount charged for a surface protection product, as defined, and the amount charged for a used vehicle contract cancellation option agreement, within the listing of "itemization of the amount financed."

The bill would require a seller to provide the buyer with a specified disclosure if a conditional sale contract is used disclosing, as specified, the charge for a service contract, an insurance product, a debt cancellation agreement, a theft deterrent device, a surface protection product, and a vehicle contract cancellation option agreement.

The bill would prohibit a seller, in consideration of an assignment of a conditional sale contract, from receiving or accepting from the assignee any payment or credit based upon any amount collected or received under the contract, or to be collected or received, in excess of specified amounts.

Existing law makes it a violation, punishable as a misdemeanor, for the holder of a dealer's license to do, or fail to do, specified actions with regard to the advertising and sale of motor vehicles.

This bill would expand those provisions to prohibit a dealer from advertising or selling a vehicle as "certified," or using similar descriptive terms to imply that the vehicle meets the terms of a used vehicle certification program, unless that vehicle meets specified criteria. The bill would make violations of this provision actionable under the Consumers Legal Remedies Act and the Unfair Competition Law, and as false advertising. The bill would also prohibit a dealer from adding charges to a sale or lease contract without the buyer's consent or inflating a payment or extending the maturity of a contract for the purpose of disguising the actual charges for goods or services.

The bill would require a dealer that obtains a consumer credit score, as defined, from a consumer credit reporting agency, as defined, for use in connection with an application for credit initiated by a consumer for the purchase or lease of a motor vehicle for personal,

family, or household use to provide specific information to the consumer prior to the sale or lease of that vehicle.

The bill would prohibit a dealer from selling a used vehicle, as defined, having a purchase price of less than \$40,000, at retail, to an individual for personal, family, or household use without first offering the buyer a contract cancellation option agreement that contains specified information. The bill would specify the rights and duties of a buyer and dealer under a contract cancellation option agreement.

Because the violation of these provisions would be a misdemeanor, the bill would create a new crime, thereby imposing a state-mandated local program.

The bill would make other technical and conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) This act shall be known and may be cited as
- 2 the “Car Buyer’s Bill of Rights.”
- 3 (b) It is the intent of the Legislature to place limits and
- 4 restrictions on motor vehicle dealers licensed pursuant to Article
- 5 1 (commencing with Section 11700) of Chapter 4 of Division 5
- 6 of the Vehicle Code. Nothing in this act is intended to change or
- 7 limit the rights or defenses available under current law to an
- 8 assignee who obtains a conditional sale contract for value
- 9 without notice of any claim or defense against him or her by any
- 10 other person.
- 11 SEC. 2. Section 2981 of the Civil Code is amended to read:
- 12 2981. As used in this chapter, unless the context otherwise
- 13 requires:
- 14 (a) “Conditional sale contract” means:
- 15 (1) A contract for the sale of a motor vehicle between a buyer
- 16 and a seller, with or without accessories, under which possession
- 17 is delivered to the buyer and either of the following:

1 (A) The title vests in the buyer thereafter only upon the
2 payment of all or a part of the price, or the performance of any
3 other condition.

4 (B) A lien on the property is to vest in the seller as security for
5 the payment of part or all of the price, or for the performance of
6 any other condition.

7 (2) A contract for the bailment of a motor vehicle between a
8 buyer and a seller, with or without accessories, by which the
9 bailee or lessee agrees to pay as compensation for use a sum
10 substantially equivalent to or in excess of the aggregate value of
11 the vehicle and its accessories, if any, at the time the contract is
12 executed, and by which it is agreed that the bailee or lessee will
13 become, or for no other or for a nominal consideration has the
14 option of becoming, the owner of the vehicle upon full
15 compliance with the terms of the contract.

16 (b) "Seller" means a person engaged in the business of selling
17 or leasing motor vehicles under conditional sale contracts.

18 (c) "Buyer" means the person who buys or hires a motor
19 vehicle under a conditional sale contract.

20 (d) "Person" includes an individual, company, firm,
21 association, partnership, trust, corporation, limited liability
22 company, or other legal entity.

23 (e) "Cash price" means the amount for which the seller would
24 sell and transfer to the buyer unqualified title to the motor vehicle
25 described in the conditional sale contract, if the property were
26 sold for cash at the seller's place of business on the date the
27 contract is executed, and shall include taxes to the extent
28 imposed on the cash sale and the cash price of accessories or
29 services related to the sale, including, but not limited to, delivery,
30 installation, alterations, modifications, improvements, document
31 preparation fees, a service contract, a vehicle contract
32 cancellation option agreement, and payment of a prior credit or
33 lease balance remaining on property being traded in.

34 (f) "Downpayment" means a payment that the buyer pays or
35 agrees to pay to the seller in cash or property value or money's
36 worth at or prior to delivery by the seller to the buyer of the
37 motor vehicle described in the conditional sale contract. The term
38 shall also include the amount of any portion of the downpayment
39 the payment of which is deferred until not later than the due date
40 of the second otherwise scheduled payment, if the amount of the

1 deferred downpayment is not subject to a finance charge. The
2 term does not include any administrative finance charge charged,
3 received or collected by the seller as provided in this chapter.

4 (g) "Amount financed" means the amount required to be
5 disclosed pursuant to paragraph (8) of subdivision (a) of Section
6 2982.

7 (h) "Unpaid balance" means the difference between
8 subdivision (e) and subdivision (f), plus all insurance premiums
9 (except for credit life or disability insurance when the amount
10 thereof is included in the finance charge), which are included in
11 the contract balance, and the total amount paid or to be paid as
12 follows:

13 (1) To a public officer in connection with the transaction.

14 (2) For license, certificate of title, and registration fees
15 imposed by law, and the amount of the state fee for issuance of a
16 certificate of compliance or certificate of waiver pursuant to
17 Section 9889.56 of the Business and Professions Code.

18 (i) "Finance charge" has the meaning set forth for that term in
19 Section 226.4 of Regulation Z. The term shall not include
20 delinquency charges or collection costs and fees as provided by
21 subdivision (k) of Section 2982, extension or deferral agreement
22 charges as provided by Section 2982.3, or amounts for insurance,
23 repairs to or preservation of the motor vehicle, or preservation of
24 the security interest therein advanced by the holder under the
25 terms of the contract.

26 (j) "Total of payments" means the amount required to be
27 disclosed pursuant to subdivision (h) of Section 226.18 of
28 Regulation Z. The term includes any portion of the downpayment
29 that is deferred until not later than the second otherwise
30 scheduled payment and that is not subject to a finance charge.
31 The term shall not include amounts for which the buyer may later
32 become obligated under the terms of the contract in connection
33 with insurance, repairs to or preservation of the motor vehicle,
34 preservation of the security interest therein, or otherwise.

35 (k) "Motor vehicle" means a vehicle required to be registered
36 under the Vehicle Code that is bought for use primarily for
37 personal or family purposes, and does not mean any vehicle that
38 is bought for use primarily for business or commercial purposes
39 or a mobilehome, as defined in Section 18008 of the Health and
40 Safety Code that is sold on or after July 1, 1981. "Motor vehicle"

1 does not include any trailer that is sold in conjunction with a
2 vessel and that comes within the definition of “goods” under
3 Section 1802.1.

4 (l) “Purchase order” means a sales order, car reservation,
5 statement of transaction or any other such instrument used in the
6 conditional sale of a motor vehicle pending execution of a
7 conditional sale contract. The purchase order shall conform to the
8 disclosure requirements of subdivision (a) of Section 2982 and
9 Section 2984.1, and subdivision (m) of Section 2982 shall apply.

10 (m) “Regulation Z” means a rule, regulation or interpretation
11 promulgated by the Board of Governors of the Federal Reserve
12 System (“Board”) under the federal Truth in Lending Act, as
13 amended (15 U.S.C. 1601, et seq.), and an interpretation or
14 approval issued by an official or employee of the Federal
15 Reserve System duly authorized by the board under the Truth in
16 Lending Act, as amended, to issue the interpretations or
17 approvals.

18 (n) “Simple-interest basis” means the determination of a
19 finance charge, other than an administrative finance charge, by
20 applying a constant rate to the unpaid balance as it changes from
21 time to time either:

22 (1) Calculated on the basis of a 365-day year and actual days
23 elapsed (although the seller may, but need not, adjust its
24 calculations to account for leap years); reference in this chapter
25 to the “365-day basis” shall mean this method of determining the
26 finance charge, or

27 (2) For contracts entered into prior to January 1, 1988,
28 calculated on the basis of a 360-day year consisting of 12 months
29 of 30 days each and on the assumption that all payments will be
30 received by the seller on their respective due dates; reference in
31 this chapter to the “360-day basis” shall mean this method of
32 determining the finance charge.

33 (o) “Precomputed basis” means the determination of a finance
34 charge by multiplying the original unpaid balance of the contract
35 by a rate and multiplying that product by the number of payment
36 periods elapsing between the date of the contract and the date of
37 the last scheduled payment.

38 (p) “Service contract” means “vehicle service contract” as
39 defined in subdivision (c) of Section 12800 of the Insurance
40 Code.

(q) “Surface protection product” means the following products installed by the seller after the motor vehicle is sold:

- (1) Undercoating.
- (2) Rustproofing.
- (3) Chemical or film paint sealant or protectant.
- (4) Chemical sealant or stain inhibitor for carpet and fabric.

(r) “Theft deterrent device” means the following devices installed by the seller after the motor vehicle is sold:

- (1) A vehicle alarm system.
- (2) A window etch product.
- (3) A body part marking product.
- (4) A steering lock.
- (5) A pedal or ignition lock.
- (6) A fuel or ignition kill switch.

SEC. 3. Section 2982 of the Civil Code is amended to read:

2982. A conditional sale contract subject to this chapter shall contain the disclosures required by Regulation Z, whether or not Regulation Z applies to the transaction. In addition, to the extent applicable, the contract shall contain the other disclosures and notices required by, and shall satisfy the requirements and limitations of, this section. The disclosures required by subdivision (a) may be itemized or subtotaled to a greater extent than as required by that subdivision and shall be made together and in the sequence set forth in that subdivision. All other disclosures and notices may appear in the contract in any location or sequence and may be combined or interspersed with other provisions of the contract.

(a) The contract shall contain the following disclosures, as applicable, which shall be labeled “itemization of the amount financed:”

(1) (A) The cash price, exclusive of document preparation fees, business partnership automation fees, taxes imposed on the sale, pollution control certification fees, prior credit or lease balance on property being traded in, the amount charged for a service contract, the amount charged for a theft deterrent system, the amount charged for a surface protection product, the amount charged for an optional debt cancellation agreement, and the amount charged for a contract cancellation option agreement.

(B) The fee to be retained by the seller for document preparation.

- 1 (C) The fee charged by the seller for certifying that the motor
2 vehicle complies with applicable pollution control requirements.
- 3 (D) A charge for a theft deterrent device.
- 4 (E) A charge for a surface protection product.
- 5 (F) Taxes imposed on the sale.
- 6 (G) The amount of any optional business partnership
7 automation fee to register or transfer the vehicle, which shall be
8 labeled “Optional DMV Electronic Filing Fee.”
- 9 (H) The amount charged for a service contract.
- 10 (I) The prior credit or lease balance remaining on property
11 being traded in, as required by paragraph (6). The disclosure
12 required by this subparagraph shall be labeled “prior credit or
13 lease balance (see downpayment and trade-in calculation).”
- 14 (J) Any charge for an optional debt cancellation agreement.
- 15 (K) Any charge for a used vehicle contract cancellation option
16 agreement.
- 17 (L) The total cash price, which is the sum of subparagraphs
18 (A) to (K), inclusive.
- 19 (2) Amounts paid to public officials for the following:
- 20 (A) Vehicle license fees.
- 21 (B) Registration, transfer, and titling fees.
- 22 (C) California tire fees imposed pursuant to Section 42885 of
23 the Public Resources Code.
- 24 (3) The aggregate amount of premiums agreed, upon
25 execution of the contract, to be paid for policies of insurance
26 included in the contract, excluding the amount of any insurance
27 premium included in the finance charge.
- 28 (4) The amount of the state fee for issuance of a certificate of
29 compliance, noncompliance, exemption, or waiver pursuant to
30 any applicable pollution control statute.
- 31 (5) A subtotal representing the sum of the foregoing items.
- 32 (6) The amount of the buyer’s downpayment itemized to show
33 the following:
- 34 (A) The agreed value of the property being traded in.
- 35 (B) The prior credit or lease balance, if any, owing on the
36 property being traded in.
- 37 (C) The net agreed value of the property being traded in,
38 which is the difference between the amounts disclosed in
39 subparagraphs (A) and (B). If the prior credit or lease balance of

1 the property being traded in exceeds the agreed value of the
2 property, a negative number shall be stated.

3 (D) The amount of any portion of the downpayment to be
4 deferred until not later than the due date of the second regularly
5 scheduled installment under the contract and that is not subject to
6 a finance charge.

7 (E) The amount of any manufacturer's rebate applied or to be
8 applied to the downpayment.

9 (F) The remaining amount paid or to be paid by the buyer as a
10 downpayment.

11 (G) The total downpayment. If the sum of subparagraphs (C)
12 to (F), inclusive, is zero or more, that sum shall be stated as the
13 total downpayment and no amount shall be stated as the prior
14 credit or lease balance under subparagraph (I) of paragraph (1). If
15 the sum of subparagraphs (C) to (F), inclusive, is less than zero,
16 then that sum, expressed as a positive number, shall be stated as
17 the prior credit or lease balance under subparagraph (I) of
18 paragraph (1), and zero shall be stated as the total downpayment.
19 The disclosure required by this subparagraph shall be labeled
20 "total downpayment" and shall contain a descriptor indicating
21 that if the total downpayment is a negative number, a zero shall
22 be disclosed as the total downpayment and a reference made that
23 the remainder shall be included in the disclosure required
24 pursuant to subparagraph (I) of paragraph (1).

25 (7) The amount of any administrative finance charge, labeled
26 "prepaid finance charge."

27 (8) The difference between item (5) and the sum of items (6)
28 and (7), labeled "amount financed."

29 (b) No particular terminology is required to disclose the items
30 set forth in subdivision (a) except as expressly provided in that
31 subdivision.

32 (c) If payment of all or a portion of the downpayment is to be
33 deferred, the deferred payment shall be reflected in the payment
34 schedule disclosed pursuant to Regulation Z.

35 (d) If the downpayment includes property being traded in, the
36 contract shall contain a brief description of that property.

37 (e) The contract shall contain the names and addresses of all
38 persons to whom the notice required under Section 2983.2 and
39 permitted under Sections 2983.5 and 2984 is to be sent.

(f) (1) If the contract includes a finance charge determined on the precomputed basis, the contract shall identify the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and contain a statement of the amount or method of computation of any charge that may be deducted from the amount of any unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the actuarial method if the computation will be under that method. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the Rule of 78's, the sum of the digits, or the sum of the periodic time balances method in all other cases, and those references shall be deemed to be equivalent for disclosure purposes.

(2) If the contract includes a finance charge that is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, the contract shall contain a statement of that fact and the amount of the minimum finance charge or its method of calculation.

(g) (1) If the contract includes a finance charge that is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(2) If the contract includes a finance charge that is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(3) If the contract includes a finance charge that is determined on the simple-interest basis, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(h) The contract shall contain a notice in at least 8-point boldface type, acknowledged by the buyer, that reads as follows:

"If you have a complaint concerning this sale, you should try to resolve it with the seller.

Complaints concerning unfair or deceptive practices or methods by the seller may be referred to the city attorney, the district attorney, or an investigator for the Department of Motor Vehicles, or any combination thereof.

After this contract is signed, the seller may not change the financing or payment terms unless you agree in writing to the change. You do not have to agree to any change, and it is an unfair or deceptive practice for the seller to make a unilateral change.

1 _____
2 Buyer's Signature"
3

4 (i) (1) The contract shall contain an itemization of any
5 insurance included as part of the amount financed disclosed
6 pursuant to paragraph (3) of subdivision (a) and of any insurance
7 included as part of the finance charge. The itemization shall
8 identify the type of insurance coverage and the premium charged
9 therefor, and, if the insurance expires before the date of the last
10 scheduled installment included in the repayment schedule, the
11 term of the insurance shall be stated.

12 (2) If any charge for insurance, other than for credit life or
13 disability, is included in the contract balance and disbursement of
14 any part thereof is to be made more than one year after the date
15 of the conditional sale contract, any finance charge on the
16 amount to be disbursed after one year shall be computed from the
17 month the disbursement is to be made to the due date of the last
18 installment under the conditional sale contract.

19 (j) (1) Except for contracts in which the finance charge or
20 portion thereof is determined by the simple-interest basis and the
21 amount financed disclosed pursuant to paragraph (8) of
22 subdivision (a) is more than two thousand five hundred dollars
23 (\$2,500), the dollar amount of the disclosed finance charge may
24 not exceed the greater of:

25 (A) (i) One and one-half percent on so much of the unpaid
26 balance as does not exceed two hundred twenty-five dollars
27 (\$225), 1 1/2 percent on so much of the unpaid balance in excess
28 of two hundred twenty-five dollars (\$225) as does not exceed
29 nine hundred dollars (\$900) and five-sixths of 1 percent on so
30 much of the unpaid balance in excess of nine hundred dollars
31 (\$900) as does not exceed two thousand five hundred dollars
32 (\$2,500).

33 (ii) One percent of the entire unpaid balance; multiplied in
34 either case by the number of months (computed on the basis of a
35 full month for any fractional month period in excess of 15 days)
36 elapsing between the date of the contract and the due date of the
37 last installment.

38 (B) If the finance charge is determined by the precomputed
39 basis, twenty-five dollars (\$25).

1 (C) If the finance charge or a portion thereof is determined by
2 the simple-interest basis:

3 (i) Twenty-five dollars (\$25) if the unpaid balance does not
4 exceed one thousand dollars (\$1,000).

5 (ii) Fifty dollars (\$50) if the unpaid balance exceeds one
6 thousand dollars (\$1,000) but does not exceed two thousand
7 dollars (\$2,000).

8 (iii) Seventy-five dollars (\$75) if the unpaid balance exceeds
9 two thousand dollars (\$2,000).

10 (2) The holder of the contract may not charge, collect, or
11 receive a finance charge that exceeds the disclosed finance
12 charge, except to the extent (A) caused by the holder's receipt of
13 one or more payments under a contract that provides for
14 determination of the finance charge or a portion thereof on the
15 365-day basis at a time or times other than as originally
16 scheduled whether or not the parties enter into an agreement
17 pursuant to Section 2982.3, (B) permitted by paragraph (2), (3),
18 or (4) of subdivision (c) of Section 226.17 of Regulation Z, or
19 (C) permitted by subdivisions (a) and (c) of Section 2982.8.

20 (3) If the finance charge or a portion thereof is determined by
21 the simple-interest basis and the amount of the unpaid balance
22 exceeds five thousand dollars (\$5,000), the holder of the contract
23 may, in lieu of its right to a minimum finance charge under
24 subparagraph (C) of paragraph (1), charge, receive, or collect on
25 the date of the contract an administrative finance charge not to
26 exceed seventy-five dollars (\$75), provided that the sum of the
27 administrative finance charge and the portion of the finance
28 charge determined by the simple-interest basis shall not exceed
29 the maximum total finance charge permitted by subparagraph (A)
30 of paragraph (1). Any administrative finance charge that is
31 charged, received, or collected by a holder shall be deemed a
32 finance charge earned on the date of the contract.

33 (4) If a contract provides for unequal or irregular payments, or
34 payments on other than a monthly basis, the maximum finance
35 charge shall be at the effective rate provided for in paragraph (1),
36 having due regard for the schedule of installments.

37 (k) The contract may provide that for each installment in
38 default for a period of not less than 10 days the buyer shall pay a
39 delinquency charge in an amount not to exceed in the aggregate 5
40 percent of the delinquent installment, which amount may be

1 collected only once on any installment regardless of the period
2 during which it remains in default. Payments timely received by
3 the seller under an extension or deferral agreement may not be
4 subject to a delinquency charge unless the charge is permitted by
5 Section 2982.3. The contract may provide for reasonable
6 collection costs and fees in the event of delinquency.

7 (I) Notwithstanding any provision of a contract to the contrary,
8 the buyer may pay at any time before maturity the entire
9 indebtedness evidenced by the contract without penalty. In the
10 event of prepayment in full:

11 (1) If the finance charge was determined on the precomputed
12 basis, the amount required to prepay the contract shall be the
13 outstanding contract balance as of that date, provided, however,
14 that the buyer shall be entitled to a refund credit in the amount of
15 the unearned portion of the finance charge, except as provided in
16 paragraphs (3) and (4). The amount of the unearned portion of
17 the finance charge shall be at least as great a proportion of the
18 finance charge, including any additional finance charge imposed
19 pursuant to Section 2982.8 or other additional charge imposed
20 because the contract has been extended, deferred, or refinanced,
21 as the sum of the periodic monthly time balances payable more
22 than 15 days after the date of prepayment bears to the sum of all
23 the periodic monthly time balances under the schedule of
24 installments in the contract or, if the contract has been extended,
25 deferred, or refinanced, as so extended, deferred, or refinanced. If
26 the amount of the refund credit is less than one dollar (\$1), no
27 refund credit need be made by the holder. Any refund credit may
28 be made in cash or credited to the outstanding obligations of the
29 buyer under the contract.

30 (2) If the finance charge or a portion thereof was determined
31 on the simple-interest basis, the amount required to prepay the
32 contract shall be the outstanding contract balance as of that date,
33 including any earned finance charges that are unpaid as of that
34 date and, if applicable, the amount provided in paragraph (3), and
35 provided further that in cases where a finance charge is
36 determined on the 360-day basis, the payments theretofore
37 received will be assumed to have been received on their
38 respective due dates regardless of the actual dates on which the
39 payments were received.

1 (3) Where the minimum finance charge provided by
2 subparagraph (B) or subparagraph (C) of paragraph (1) of
3 subdivision (j), if either is applicable, is greater than the earned
4 finance charge as of the date of prepayment, the holder shall be
5 additionally entitled to the difference.

6 (4) The provisions of this subdivision may not impair the right
7 of the seller or the seller's assignee to receive delinquency
8 charges on delinquent installments and reasonable costs and fees
9 as provided in subdivision (k) or extension or deferral agreement
10 charges as provided in Section 2982.3.

11 (5) Notwithstanding any provision of a contract to the
12 contrary, whenever the indebtedness created by any contract is
13 satisfied prior to its maturity through surrender of the motor
14 vehicle, repossession of the motor vehicle, redemption of the
15 motor vehicle after repossession, or any judgment, the
16 outstanding obligation of the buyer shall be determined as
17 provided in paragraph (1) or (2). Notwithstanding, the buyer's
18 outstanding obligation shall be computed by the holder as of the
19 date the holder recovers the value of the motor vehicle through
20 disposition thereof or judgment is entered or, if the holder elects
21 to keep the motor vehicle in satisfaction of the buyer's
22 indebtedness, as of the date the holder takes possession of the
23 motor vehicle.

24 (m) Notwithstanding any other provision of this chapter to the
25 contrary, any information required to be disclosed in a
26 conditional sale contract under this chapter may be disclosed in
27 any manner, method, or terminology required or permitted under
28 Regulation Z, as in effect at the time that disclosure is made,
29 except that permitted by paragraph (2) of subdivision (c) of
30 Section 226.18 of Regulation Z, provided that all of the
31 requirements and limitations set forth in subdivision (a) of this
32 section are satisfied. This chapter does not prohibit the disclosure
33 in that contract of additional information required or permitted
34 under Regulation Z, as in effect at the time that disclosure is
35 made.

36 (n) If the seller imposes a fee for document preparation, the
37 contract shall contain a disclosure that the fee is not a
38 governmental fee.

39 (o) A seller may not impose an application fee for a
40 transaction governed by this chapter.

(p) The seller or holder may charge and collect a fee not to exceed fifteen dollars (\$15) for the return by a depository institution of a dishonored check, negotiated order of withdrawal, or share draft issued in connection with the contract, if the contract so provides or if the contract contains a generalized statement that the buyer may be liable for collection costs incurred in connection with the contract.

(q) The contract shall disclose on its face, by printing the word “new” or “used” within a box outlined in red, that is not smaller than one-half inch high and one-half inch wide, whether the vehicle is sold as a new vehicle, as defined in Section 430 of the Vehicle Code, or as a used vehicle, as defined in Section 665 of the Vehicle Code.

(r) The contract shall contain a notice with a heading in at least 12-point bold type and the text in at least 10-point bold type, circumscribed by a line, immediately above the contract signature line, that reads as follows:

**~~THERE IS NO COOLING-OFF PERIOD UNLESS YOU
OBTAIN A CONTRACT CANCELLATION OPTION.~~**

***THERE IS NO COOLING-OFF PERIOD UNLESS YOU
OBTAIN A CONTRACT CANCELLATION OPTION.***

California law does not provide for a “cooling-off” or other cancellation period for vehicle sales. Therefore, you cannot later cancel this contract simply because you change your mind, decide the vehicle costs too much, or wish you had acquired a different vehicle. After you sign below, you may only cancel this contract with the agreement of the seller or for legal cause, such as fraud.

However, California law does require a seller to offer a 2-day contract cancellation option on used vehicles with a purchase price of less than \$40,000, subject to certain statutory conditions. See the vehicle contract cancellation option agreement for details.

SEC. 4. Section 2982.2 is added to the Civil Code, to read:
2982.2. Prior to the execution of a conditional sale contract, the seller shall provide to a buyer, and obtain the buyer’s

signature on, a written disclosure that sets forth the following information:

(a) (1) A description and the price of each item sold if the contract includes a charge for the item.

(2) Paragraph (1) applies to each item in the following categories:

(A) A service contract.

(B) An insurance product.

(C) A debt cancellation agreement.

(D) A theft deterrent device.

(E) A surface protection product.

(F) A vehicle contract cancellation option agreement.

(b) The sum of all of the charges disclosed under subdivision (a), labeled “total.”

(c) The amount that would be calculated under the contract as the regular installment payment if charges for the items disclosed pursuant to subdivision (a) are not included in the contract. The amount disclosed pursuant to this subdivision shall be labeled “Installment Payment EXCLUDING Listed Items.”

(d) The amount that would be calculated under the contract as the regular installment payment if charges for the items disclosed under subdivision (a) are included in the contract. The amount disclosed pursuant to this subdivision shall be labeled “Installment Payment INCLUDING Listed Items.”

(e) The disclosures required under this section shall be in at least 10-point type and shall be contained in a document that is separate from the conditional sale contract and a purchase order.

SEC. 5 Section 2982.10 is added to the Civil Code, to read:

2982.10. (a) In consideration of the assignment of a conditional sale contract, the seller shall not receive or accept from the assignee any payment or credit based upon any amount collected or received, or to be collected or received, under the contract as a finance charge except to the extent the payment or credit does not exceed the amount that would be calculated in accordance with Regulation Z, whether or not Regulation Z applies to the contract, as the contract’s finance charge using, for the purposes of the calculation, an annual percentage rate equal to 2.5 percent for a contract having an original scheduled term of 60 monthly payments or less or 2 percent for a contract having an original scheduled term of more than 60 monthly payments.

1 (b) This section does not apply in the following circumstances:

2 (1) Assignment with full recourse or under other terms
3 requiring the seller to bear the entire risk of financial
4 performance of the buyer.

5 (2) Assignment more than six months following the date of the
6 conditional sale contract.

7 (3) Isolated instances resulting from bona fide errors that
8 would otherwise constitute a violation of subdivision (a) if the
9 seller maintains reasonable procedures to guard against any
10 errors and promptly, upon notice of the error, remits to the
11 assignee any consideration received in excess of that permitted
12 by subdivision (a).

13 SEC. 6. Section 6012.3 is added to the Revenue and Taxation
14 Code, to read:

15 6012.3. For purposes of this part, “gross receipts” and “sales
16 price” do not include that portion of the sales price returned to
17 the purchaser of a used motor vehicle or the purchase price for
18 the purchase of a contract cancellation option pursuant to Section
19 11713.21 of the Vehicle Code.

20 SEC. 7. Section 11709.2 of the Vehicle Code is amended to
21 read:

22 11709.2. Every dealer shall conspicuously display a notice,
23 not less than eight inches high and 10 inches wide, in each sales
24 office and sales cubicle of a dealer’s established place of
25 business where written terms of specific sale or lease transactions
26 are discussed with prospective purchasers or lessees, and in each
27 room of a dealer’s established place of business where sale and
28 lease contracts are regularly executed, which states the following:

29
30 “NO COOLING-OFF PERIOD

31
32 California law does not provide for a “cooling-off” or other
33 cancellation period for vehicle lease or purchase contracts.
34 Therefore, you cannot later cancel such a contract simply
35 because you change your mind, decide the vehicle costs too
36 much, or wish you had acquired a different vehicle. After you
37 sign a motor vehicle purchase or lease contract, it may only be
38 canceled with the agreement of the seller or lessor or for legal
39 cause, such as fraud.

1 However, California law does require a seller to offer a 2-day
2 contract cancellation option on used vehicles with a purchase
3 price of less than \$40,000, subject to certain statutory conditions.
4 See the vehicle contract cancellation option agreement for
5 details.”

6 SEC. 8. Section 11713.18 is added to the Vehicle Code, to
7 read:

8 11713.18. (a) It is a violation of this code for the holder of
9 any dealer’s license issued under this article to advertise for sale
10 or sell a used vehicle as “certified” or use any similar descriptive
11 term in the advertisement or the sale of a used vehicle that
12 implies the vehicle has been certified to meet the terms of a used
13 vehicle certification program if any of the following apply:

14 (1) The dealer knows or should have known that the odometer
15 on the vehicle does not indicate actual mileage, has been rolled
16 back or otherwise altered to show fewer miles, or replaced with
17 an odometer showing fewer miles than actually driven.

18 (2) The dealer knows or should have known that the vehicle
19 was reacquired by the vehicle’s manufacturer or a dealer
20 pursuant to state or federal warranty laws.

21 (3) The title to the vehicle has been inscribed with the notation
22 “Lemon Law Buyback,” “manufacturer repurchase,” “salvage,”
23 “junk,” “nonrepairable,” “flood,” or similar designation or title
24 designation required by this state or another state.

25 (4) The vehicle has sustained damage in *an* impact, fire, or
26 flood, that after repair prior to sale substantially impairs the use
27 or safety of the vehicle.

28 (5) The dealer knows or should have known that the vehicle
29 has sustained frame damage.

30 (6) Prior to sale, the dealer fails to provide the buyer with a
31 completed inspection report indicating all the components
32 inspected.

33 (7) The dealer disclaims any warranties of merchantability on
34 the vehicle.

35 (8) The vehicle is sold “AS IS.”

36 (9) The term “certified” or any similar descriptive term is used
37 in any manner that is untrue or misleading or that would cause
38 any advertisement to be in violation of subdivision (a) of Section
39 11713 of this code or Section 17200 or 17500 of the Business
40 and Professions Code.

(b) A violation of this section is actionable under the Consumers Legal Remedies Act (Title 1.5 (commencing with Section 1750) of Part 4 of Division 3 of the Civil Code), the Unfair Competition Law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code), Section 17500 of the Business and Professions Code, or any other applicable state or federal law. The rights and remedies provided by this section are cumulative and shall not be construed as restricting any right or remedy that is otherwise available.

(c) This section does not abrogate or limit any disclosure obligation imposed by any other law.

SEC. 9. Section 11713.19 is added to the Vehicle Code, to read:

11713.19. It is unlawful and a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) Negotiate the terms of a vehicle sale or lease contract and then add charges to the contract for any goods or services without previously disclosing to the consumer the goods and services to be added and obtaining the consumer's consent.

(b) (1) Inflate the amount of an installment payment or down payment or extend the maturity of a sale or lease contract for the purpose of disguising the actual charges for goods or services to be added by the dealer to the contract.

(2) For purposes of paragraph (1), "goods or services" means any type of good or service, including, but not limited to, insurance and service contracts.

SEC. 10. Section 11713.20 is added to the Vehicle Code, to read:

11713.20. A dealer that obtains a consumer credit score, as defined in subdivision (b) of Section 1785.15.1 of the Civil Code, from a consumer credit reporting agency, as defined in subdivision (d) of Section 1785.3 of the Civil Code, for use in connection with an application for credit initiated by a consumer for the purchase or lease of a motor vehicle for personal, family, or household use, shall provide, prior to the sale or lease of the vehicle, the following information to the consumer in at least 10-point boldface type on a document separate from the sale or lease contract:

1 (a) The credit score obtained and used by the dealer and the
2 name of the credit reporting agency providing the credit score to
3 the dealer.

4 (b) The range of possible credit scores established by the
5 credit reporting agency that provided the credit score.

6 (c) The following notice, which shall include the name,
7 address, and telephone number of each credit reporting agency
8 providing a credit score that was obtained and used by the dealer:

9
10 “NOTICE TO VEHICLE CREDIT APPLICANT

11 If the dealer obtains and uses a credit score from a credit
12 reporting agency in connection with your application to finance
13 the acquisition of a vehicle, the dealer must disclose the score to
14 you.

15 The credit score is a computer generated summary calculated
16 by a credit reporting agency at the time the dealer requests the
17 score and is based on information the credit reporting agency has
18 on file. The scores are based on data about your credit history
19 and payment patterns. Credit scores are important because they
20 are used in determining whether to extend credit. The score may
21 also be used to determine the annual percentage rate you may be
22 offered. Credit scores can change over time, depending on your
23 conduct, how your credit history and payment patterns change,
24 and how credit scoring technologies change. Credit scores may
25 also vary from one credit reporting agency to another.

26 If you have questions about your credit score, contact the credit
27 reporting agency at the address and telephone number provided.
28 The credit reporting agency does not participate in the decision to
29 take any action on your application for credit and is unable to
30 provide you with specific reasons for any decision on the credit
31 application.

32 If you have questions concerning credit terms relative to your
33 purchase or lease of a vehicle, ask the dealer.”

34
35 (d) This section does not require a dealer to provide more than
36 one disclosure for each purchase or lease transaction.

37 SEC. 11. Section 11713.21 is added to the Vehicle Code, to
38 read:

39 11713.21. (a) (1) A dealer shall not sell a used vehicle, as
40 defined in Section 665 and subject to registration under this code,

1 at retail to an individual for personal, family, or household use
2 without offering the buyer a contract cancellation option
3 agreement that allows the buyer to return the vehicle without
4 cause. This section does not apply to a used vehicle having a
5 purchase price of forty thousand dollars (\$40,000) or more, *a*
6 *motorcycle, as defined in Section 400*, or a recreational vehicle,
7 as defined in Section 18010 of the Health and Safety Code.

8 (2) The purchase price for the contract cancellation option
9 shall not exceed the following:

10 (A) Seventy-five dollars (\$75) for a vehicle with a cash price
11 of five thousand dollars (\$5,000) or less.

12 (B) One hundred fifty dollars (\$150) for a vehicle with a cash
13 price of more than five thousand dollars (\$5,000), but not more
14 than ten thousand dollars (\$10,000).

15 (C) Two hundred fifty dollars (\$250) for a vehicle with a cash
16 price of more than ten thousand dollars (\$10,000), but not more
17 than thirty thousand dollars (\$30,000).

18 (D) One percent of the purchase price for a vehicle with a cash
19 price of more than thirty thousand dollars (\$30,000), but not
20 more than forty thousand dollars (\$40,000).

21 The term “cash price” as used in this paragraph has the same
22 meaning as described in subparagraph (A) of paragraph (1) of
23 subdivision (a) of Section 2982 of the Civil Code. “Cash price”
24 also excludes registration, transfer, titling, license, and California
25 tire and optional business partnership automation fees.

26 (b) To comply with subdivision (a), and notwithstanding
27 Section 2981.9 of the Civil Code, a contract cancellation option
28 agreement shall be contained in a document separate from the
29 conditional sale contract or other vehicle purchase agreement and
30 shall contain, at a minimum, the following:

31 (1) The name of the seller and the buyer.

32 (2) A description and *the* Vehicle Identification Number of the
33 vehicle purchased.

34 (3) A statement specifying the time within which the buyer
35 must exercise the right to cancel the purchase under the contract
36 cancellation option and return the vehicle to the dealer. The
37 dealer shall not specify a time that is earlier than the dealer’s
38 close of business on the second day following the day on which
39 the vehicle was originally delivered to the buyer by the dealer.

(4) A statement that clearly and conspicuously specifies the dollar amount of any restocking fee the buyer must pay to the dealer to exercise the right to cancel the purchase under the contract cancellation option. The restocking fee shall not exceed one hundred seventy-five dollars (\$175) if the vehicle's cash price is five thousand dollars (\$5,000) or less, three hundred fifty dollars (\$350) if the vehicle's ~~purchase~~ *cash* price is less than ten thousand dollars (\$10,000), and five hundred dollars (\$500) if the vehicle ~~purchase~~ *cash* price is ten thousand dollars (\$10,000) or more. The dealer shall apply toward the restocking fee the price paid by the buyer for the contract cancellation option. The ~~purchase~~ price for purchase of the contract cancellation option is not otherwise subject to setoff or refund.

(5) A statement specifying the maximum number of miles that the vehicle may be driven after its original delivery by the dealer to the buyer to remain eligible for cancellation under the contract cancellation option. A dealer shall not specify fewer than 250 miles in the contract cancellation option agreement.

(6) A statement that the contract cancellation option gives the buyer the right to cancel the purchase and obtain a full refund, minus the purchase price for the contract cancellation option agreement; and that the right to cancel will apply only if, within the time specified in the contract cancellation option agreement, the following are personally delivered to the selling dealer by the buyer: a written notice exercising the right to cancel the purchase signed by the buyer; any restocking fee specified in the contract cancellation option agreement minus the purchase price for the contract cancellation option agreement; the original contract cancellation option agreement and vehicle purchase contract and related documents, if the seller gave those original documents, to the buyer; all original vehicle titling and registration documents if the seller gave those original documents to the buyer; and the vehicle, free of all liens and encumbrances, other than any lien or encumbrance created by or incident to the conditional sales contract, any loan arranged by the dealer, or any loan obtained by the buyer from a third party, and in the same condition as when it was delivered by the dealer to the buyer, reasonable wear and tear and any defect or mechanical problem that manifests or becomes evident after delivery that was not caused by the buyer excepted, and which must not have been driven beyond the

1 mileage limit specified in the contract cancellation option
2 agreement. The agreement may also provide that the buyer will
3 execute documents reasonably necessary to effectuate the
4 cancellation and refund and as reasonably required to comply
5 with applicable law.

6 (7) At the bottom of the contract cancellation option
7 agreement, a statement that may be signed by the buyer to
8 indicate the buyer's election to exercise the right to cancel the
9 purchase under the terms of the contract cancellation option
10 agreement, and the last date and time by which the option to
11 cancel may be exercised, followed by a line for the buyer's
12 signature. A particular form of statement is not required, but the
13 following statement is sufficient: "By signing below, I elect to
14 exercise my right to cancel the purchase of the vehicle described
15 in this agreement." The buyer's delivery of the purchase
16 cancellation agreement to the dealer with the buyer's signature
17 following this statement shall constitute sufficient written notice
18 exercising the right to cancel the purchase under paragraph (6).
19 The dealer shall provide the buyer with the statement required by
20 this paragraph in duplicate to enable the buyer to return the
21 signed cancellation notice and retain a copy of the cancellation
22 agreement.

23 (c) (1) No later than the second day following the day on
24 which the buyer exercises the right to cancel the purchase in
25 compliance with the contract cancellation option agreement, the
26 dealer shall cancel the contract and provide the buyer with a full
27 refund, including that portion of the sales tax attributable to
28 amounts excluded pursuant to Section 6012.3 of the Revenue and
29 Taxation Code.

30 (2) If the buyer was not charged for the contract cancellation
31 option agreement, the dealer shall return to the buyer, no later
32 than the ~~following~~ *day following the* day on which the buyer
33 exercises the right to cancel the purchase, any motor vehicle the
34 buyer left with the seller as a downpayment or trade-in. If the
35 dealer has sold or otherwise transferred title to the motor vehicle
36 that was left as a downpayment or trade-in, the full refund
37 described in paragraph (1) shall include the ~~retail~~ *fair* market
38 value of the motor vehicle left as a downpayment or trade-in, or
39 its value as stated in the contract or purchase order, whichever is
40 greater.

1 (3) If the buyer was charged for the contract cancellation
2 option agreement, the dealer shall retain any motor vehicle the
3 buyer left with the dealer as a downpayment or trade-in until the
4 buyer exercises the right to cancel or the right to cancel expires.
5 If the buyer exercises the right to cancel the purchase, the dealer
6 shall return to the buyer, no later than the day following the day
7 on which the buyer exercises the right to cancel the purchase, any
8 motor vehicle the buyer left with the seller as a downpayment or
9 trade-in. If the dealer has inadvertently sold or otherwise
10 transferred title to the motor vehicle as the result of a bona fide
11 error, notwithstanding reasonable procedures designed to avoid
12 that error, the inadvertent sale or transfer of title shall not be
13 deemed a violation of this paragraph, and the full refund
14 described in paragraph (1) shall include the retail market value of
15 the motor vehicle left as a downpayment or trade-in, or its value
16 as stated in the contract or purchase order, whichever is greater.

17 (d) If the dealer received a portion of the purchase price by
18 credit card, or other third-party payer on the buyer's account, the
19 dealer may refund that portion of the purchase price to the credit
20 card issuer or third-party payer for credit to the buyer's account.

21 (e) Notwithstanding subdivision (a), a dealer is not required to
22 offer a contract cancellation option agreement to an individual
23 who exercised his or her right to cancel the purchase of a vehicle
24 from the dealer pursuant to a contract cancellation option
25 agreement during the immediately preceding 30 days. A dealer is
26 not required to give notice to a subsequent buyer of the return of
27 a vehicle pursuant to this section.

28 ~~This~~ This subdivision does not abrogate or limit any disclosure
29 obligation imposed by any other law.

30 (f) This section does not affect or alter the legal rights, duties,
31 obligations, or liabilities of the buyer, the dealer, or the dealer's
32 agents or assigns, that would exist in the absence of a contract
33 cancellation option agreement. The buyer is the owner of a
34 vehicle when he or she takes delivery of a vehicle until the
35 vehicle is returned to the dealer pursuant to a contract
36 cancellation option agreement, and the existence of a contract
37 cancellation option agreement shall not impose permissive user
38 liability on the dealer, or the dealer's agents or assigns, under
39 Section 460 or 17150 of the Vehicle Code or otherwise.

1 (g) Nothing in this section is intended to affect the ability of a
2 buyer to rescind the contract or revoke acceptance under any
3 other law.

4 SEC. 12. This act shall become operative on July 1, 2006.

5 SEC. 13. No reimbursement is required by this act pursuant
6 to Section 6 of Article XIII B of the California Constitution
7 because the only costs that may be incurred by a local agency or
8 school district will be incurred because this act creates a new
9 crime or infraction, eliminates a crime or infraction, or changes
10 the penalty for a crime or infraction, within the meaning of
11 Section 17556 of the Government Code, or changes the
12 definition of a crime within the meaning of Section 6 of Article
13 XIII B of the California Constitution.